

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5552

Chapter 266, Laws of 2005

59th Legislature
2005 Regular Session

SCHOOL DISTRICT EMPLOYMENT--APPLICANT INFORMATION

EFFECTIVE DATE: 7/24/05

Passed by the Senate March 14, 2005
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 11, 2005
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 4, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5552** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 4, 2005 - 3:17 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5552

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Early Learning, K-12 & Higher Education
(originally sponsored by Senators Kohl-Welles, McAuliffe, Benton,
Johnson, Shin, Carrell, Rasmussen, Mulliken and Roach)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to information required for school district
2 employment applicants; and amending RCW 28A.400.301.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 28A.400.301 and 2004 c 29 s 2 are each amended to read
5 as follows:

6 (1) The definitions in this subsection apply throughout this
7 section unless the context clearly requires otherwise.

8 (a) "Applicant" means an applicant for employment in a certificated
9 or classified position who is currently or was previously employed by
10 a school district.

11 (b) "Employer" means a school district employer.

12 (2) Before hiring an applicant, a school district shall request the
13 applicant to sign a statement:

14 (a) Authorizing the applicant's current and past employers,
15 including employers outside of Washington state, to disclose to the
16 hiring school district sexual misconduct, if any, by the applicant and
17 making available to the hiring school district copies of all documents
18 in the previous employer's personnel, investigative, or other files
19 relating to sexual misconduct by the applicant; and

1 (b) Releasing the applicant's current and past employers, and
2 employees acting on behalf of that employer, from any liability for
3 providing information described in (a) of this subsection, as provided
4 in subsection (4) of this section.

5 (3) Before hiring an applicant, a school district shall request in
6 writing, electronic or otherwise, the applicant's current and past
7 employers, including out-of-state employers, to provide the information
8 described in subsection (2)(a) of this section, if any. The request
9 shall include a copy of the statement signed by the applicant under
10 subsection (2) of this section.

11 (4) Not later than twenty business days after receiving a request
12 under subsection (3) of this section, a school district shall provide
13 the information requested and make available to the requesting school
14 district copies of all documents in the applicant's personnel record
15 relating to the sexual misconduct. The school district, or an employee
16 acting on behalf of the school district, who in good faith discloses
17 information under this section is immune from civil liability for the
18 disclosure.

19 (5) A hiring district shall request from the office of the
20 superintendent of public instruction verification of certification
21 status, including information relating to sexual misconduct as
22 established by the provisions of subsection (11) of this section, if
23 any, for applicants for certificated employment.

24 (6) A school district shall not hire an applicant who does not sign
25 the statement described in subsection (2) of this section.

26 (7) School districts may employ applicants on a conditional basis
27 pending the district's review of information obtained under this
28 section. When requests are sent to out-of-state employers under
29 subsection (3) of this section, an applicant who has signed the
30 statement described in subsection (2) of this section, shall not be
31 prevented from gaining employment in Washington public schools if the
32 laws or policies of that other state prevent documents from being made
33 available to Washington state school districts or if the out-of-state
34 school district fails or refuses to cooperate with the request.

35 (8) Information received under this section shall be used by a
36 school district only for the purpose of evaluating an applicant's
37 qualifications for employment in the position for which he or she has
38 applied. Except as otherwise provided by law, a board member or

1 employee of a school district shall not disclose the information to any
2 person, other than the applicant, who is not directly involved in the
3 process of evaluating the applicant's qualifications for employment.
4 A person who violates this subsection is guilty of a misdemeanor.

5 (9) Beginning September 1, 2004, the board or an official of a
6 school district shall not enter into a collective bargaining agreement,
7 individual employment contract, resignation agreement, severance
8 agreement, or any other contract or agreement that has the effect of
9 suppressing information about verbal or physical abuse or sexual
10 misconduct by a present or former employee or of expunging information
11 about that abuse or sexual misconduct from any documents in the
12 previous employer's personnel, investigative, or other files relating
13 to verbal or physical abuse or sexual misconduct by the applicant. Any
14 provision of a contract or agreement that is contrary to this
15 subsection is void and unenforceable, and may not be withheld from
16 disclosure by the entry of any administrative or court order. This
17 subsection does not restrict the expungement from a personnel file of
18 information about alleged verbal or physical abuse or sexual misconduct
19 that has not been substantiated.

20 (10) This section does not prevent a school district from
21 requesting or requiring an applicant to provide information other than
22 that described in this section.

23 (11) By September 1, 2004, the state board of education has the
24 authority to and shall adopt rules defining "verbal abuse," "physical
25 abuse," and "sexual misconduct" as used in this section for application
26 to all classified and certificated employees. The definitions of
27 verbal and physical abuse and sexual misconduct adopted by the state
28 board of education must include the requirement that the school
29 district has made a determination that there is sufficient information
30 to conclude that the abuse or misconduct occurred and that the abuse or
31 misconduct resulted in the employee's leaving his or her position at
32 the school district.

33 (12) Except as limited by chapter 49.12 RCW, at the conclusion of
34 a school district's investigation, a school employee has the right to
35 review his or her entire personnel file, investigative file, or other
36 file maintained by the school district relating to sexual misconduct as
37 addressed in this section and to attach rebuttals to any documents as
38 the employee deems necessary. Rebuttal documents shall be disclosed in

1 the same manner as the documents to which they are attached. The
2 provisions of this subsection do not supercede the protections provided
3 individuals under the state whistleblower laws in chapter 42.41 RCW.

Passed by the Senate March 14, 2005.

Passed by the House April 11, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.